

REMARKS

Applicant respectfully requests reconsideration of this application. Claims 1-24 are pending. No claims have been amended, canceled, or added.

Claims 1-5, 9-15, and 19-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kumozaki et al. (U.S. 5539564), in view of Eijk et al. (U.S. 6771908 B2). Applicant respectfully traverses the rejection. Claim 1 sets forth:

monitoring a first and a second outgoing optical signals from the first and second equipments;

...

maintaining a signal selection state of the switch to continue outputting the only one of the first and the second outgoing optical signals in the same direction *if both of the first and the second outgoing optical signals have failed.* (Claim 1; emphasis added)

In contrast, neither Kumozaki nor Eijk, alone or in combination, teaches the above limitation. Although the Office Action admitted that Kumozaki does not disclose expressly having a signal selection state of the respective optical signal switch remains unchanged to continue selecting the first output optical signal in the same direction if both the first output optical signal and the second output optical signal fail, the Office Action argued that it would have been obvious for a person of ordinary skill in the art at the time when the invention was made to incorporate the above feature into Kumozaki (Office Action, p. 3, ln. 11-18). Applicant respectfully disagrees with the argument because Kumozaki teaches away from the invention as claimed.

According to Kumozaki, when a problem develops in the transceiver 110 or optical fiber 200, the control section 170 of the central office equipment 102 switches the switching members 130 and 140 over to the “b” side (Kumozaki, col. 20, ln. 35-40). Kumozaki further explains the control action for the switching operation as follows:

When a problem develops in the transceiver 110 or in the optical fiber 200, both U-signals from the subscriber's equipment 303, 403 become "cut off" or "many errors" at the transceiver 110 of the central office equipment 102. The control section 170, *detecting that both multiplexed D-signals from the equipment 303, 403 are received at the transceiver 110 indicates "cut off" or "many errors"*, the control section 170 *switches* the switching member 130, 140 over to the "b" side. In this case, there will be no command signal issued to the subscriber's equipment 303, 403.
(Kumozaki, col. 21, ln. 35-44; emphasis added)

As stated in Kumozaki, the control section 170 switches the switching members 130 and 140 upon detecting that both output signals from the equipment 303 and 403, which are received at the transceiver 110, indicate cut off or many errors. In other words, Kumozaki teaches *switching* the switching members 130 and 140 *when detecting both signals* from the equipment 303 and 403 *fail*, which is the opposite to the limitation set forth above. Therefore, Kumozaki teaches away from the invention as claimed.

Furthermore, assuming *arguendo* that Kumozaki was modified to incorporate the feature as claimed, the control section 170 would not have switched when detecting both signals from the equipment 303 and 403 fail. As a result, the equipment 102 would have continued using "a" side, instead of "b" side. Because "a" side is the faulty signal path, this would render the equipment 102 in Kumozaki to mal-function.

Because Kumozaki teaches away from the invention as claimed and modifying Kumozaki to incorporate the limitation at issue would render the equipment 102 in Kumozaki to mal-function, one of ordinary skill in the art would not have been motivated to modify Kumozaki with the limitation at issue. Furthermore, the other reference, Eijk merely discloses an optical signal splitter (Figure 5). Eijk does not teach the limitation discussed above. Because neither Kumozaki nor Eijk, alone or in combination, teaches the feature of claim 1 set forth above, and one of ordinary skill in the art would not have been motivated to modify the references with the feature for the reason discussed above,

claim 1 is patentable over Kumozaki in view of Eijk. Withdrawal of the rejection is respectfully requested.

Claims 9, 13, and 19 are patentable over Kumozaki in view of Eijk for the reason discussed above with respect to claim 1. Claims 2-5, 10-12, 14-15, and 20-21 depend, directly or indirectly, from claims 1, 9, 13, and 19, respectively, and thus, are patentable over Kumozaki in view of Eijk. Withdrawal of the rejection is respectfully requested.

Claims 6-8, 16-18, and 22-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kumozaki et al. (U.S. 5539564), in view of Eijk et al. (U.S. 6771908 B2), as applied to claims 1, 13, and 19 above, and further in view of Kuroyanagi et al. (U.S. 6433900 B1). Applicant respectfully traverses the rejection. Claims 6-8, 16-18, and 22-24 depend from claims 1, 13, and 19, respectively, and thus, include all limitations set forth in their respective base claims. For the reason discussed above with respect to claim 1, neither Kumozaki nor Eijk teaches monitoring a first and a second outgoing optical signals from the first and second equipments and maintaining a signal selection state of the switch if both of the first and the second outgoing optical signals have failed. The remaining reference, Kuroyanagi, fails to make up the deficiencies of Kumozaki and Eijk. Kuroyanagi discloses a protection switch 61 coupled to an optical XC node (Kuroyanagi, Figure 8A). Kuroyanagi does not teach monitoring a first and a second outgoing optical signals from the first and second equipments, and maintaining a signal selection state of the switch if both of the first and the second outgoing optical signals have failed.

Because none of Kumozaki, Eijk, and Kuroyanagi, alone or in combination, teaches all limitations set forth in claims 6-8, 16-18, and 22-24, claims 6-8, 16-18, and 22-24 are patentable over Kumozaki in view of Eijk and Kuroyanagi. Withdrawal of the rejection is respectfully requested.


CONCLUSION

Applicant respectfully submits that the rejections have been overcome by the remarks, and that the pending claims are in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the pending claims be allowed.

Pursuant to 37 C.F.R. §1.136(a)(3), Applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,
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